



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 37-TA-1016 (Modification Proceeding)]

Certain Access Control Systems and Components Thereof

Notice of the Commission's Final Determination in a Modification Proceeding; Termination of the Modification Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined to modify the remedial orders issued in the underlying investigation to exempt Respondents’ redesigned wireless garage door opener products as non-infringing. The above-captioned modification proceeding is hereby terminated.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone (202) 205-2382. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the underlying investigation on August 9, 2016, based on a complaint filed by The Chamberlain Group, Inc.

(“Chamberlain”) of Elmhurst, Illinois. 81 FR 52713 (Aug. 9, 2016). The complaint alleged a violation of 19 U.S.C. 1337, as amended (“Section 337”), in the importation, sale for importation, or sale in United States after importation of certain access control systems and components thereof that allegedly infringe one or more claims of U.S. Patent Nos. 7,161,319 (“the ’319 patent”), 7,339,336 (“the ’336 patent”), and 7,196,611 (“the ’611 patent”). The ’611 patent was subsequently withdrawn and terminated from the investigation. Order No. 28 (May 3, 2017), *not rev’d*, Comm’n Notice (May 31, 2017).

The notice of investigation named Techtronic Industries Co., Techtronic Industries North America, Inc., One World Technologies, Inc., and OWT Industries, Inc., and ET Technology (Wuxi) Co. (collectively “Techtronic”) among the respondents. 81 FR 52713. Ryobi Technologies, Inc. was initially named as a respondent but was later terminated. Order No. 6 (Oct. 17, 2016), *not rev’d*, Comm’n Notice (Nov. 7, 2016). The Office of Unfair Import Investigations (“OUII”) was not named as a party to the investigation. 81 FR 52713.

On October 23, 2017, the then-presiding administrative law judge (“ALJ”) issued a final initial determination (“ID”) in the underlying investigation, finding that Techtronic violated Section 337 by importing and selling garage door openers that infringe asserted claims 1-4, 7-12, 15, and 16 of the ’319 patent. ID at 294. The ID found no infringement and hence no violation with respect to the ’336 patent. *Id.* The ID found none of the claims invalid as obvious, but found claim 34 of the ’336 patent invalid under 35 U.S.C. 101 (“Section 101”).

The Commission did not review, and thereby adopted, the ID’s findings on infringement but determined to review the ALJ’s findings on invalidity. 82 FR 61792 (Dec. 29, 2017). The Commission ultimately affirmed the ID’s finding that none of the claims is invalid as obvious and took no position on invalidity under Section 101. Comm’n Op. at 34-38 (Mar. 23, 2018).

The Commission found a violation of Section 337 by reason of infringement of the '319 patent but not the '336 patent, and issued a limited exclusion order and cease and desist orders against Techtronic. 83 FR 13517 (Mar. 29, 2018). Chamberlain and Techtronic have cross-appealed the Commission's final determination to the U.S. Court of Appeals for the Federal Circuit. *The Chamberlain Group, Inc. v. International Trade Comm'n*, Appeal Nos. 18-2002, 18-2191 (consolidated).

On August 2, 2018, Techtronic filed a petition to institute a modification proceeding, pursuant to 19 U.S.C. § 1337(k), to determine whether its redesigned wireless garage door openers infringe the '319 patent and are covered by the remedial orders issued in the underlying investigation. Chamberlain filed its opposition to the petition on August 13, 2018.

On September 4, 2018, the Commission issued a notice of its determination to institute the modification proceeding. 83 FR 45676 (Sept. 10, 2018). OUII was not named as a party to the modification proceeding. *Id.*

After a period for fact and expert discovery, motions, and pre-hearing briefing, the chief administrative law judge ("CALJ") held an evidentiary hearing on December 12, 2018, on the issues raised by the parties. The parties filed their post-hearing briefs on December 21, 2018, and their reply briefs on January 30, 2019. In view of the partial shutdown of the federal government in January 2019, the CALJ issued an ID to revise the procedural schedule and extend the deadline for issuance of the RD from March 11, 2019, to April 22, 2019. Order No. 48 (Jan. 31, 2019). The Commission subsequently extended the target date for completion of this modification proceeding to July 22, 2019. Comm'n Notice (Mar. 4, 2019).

On April 22, 2019, the CALJ issued his RD, finding that Techtronic's redesigned garage door openers do not infringe the '319 patent and recommending that the remedial orders be

modified to exempt Techtronic's non-infringing products. On May 3, 2019, Chamberlain filed comments on the RD asking the Commission to review and reverse the subject RD. Techtronic did not file a reply to Chamberlain's comments.

On June 7, 2019, the Commission determined to review the subject RD and asked the parties to submit additional briefing. Comm'n Notice at 2-3 (June 7, 2019). The parties filed their initial responses on June 20, 2019, and their reply briefs on June 27, 2019.

Having considered the parties' submissions, the RD, and the evidence of record, the Commission has determined that Techtronic's redesigned wireless products do not infringe the '319 patent and thus are not covered by the remedial orders issued in the underlying investigation. The Commission has further determined to modify the limited exclusion order and cease and desist orders issued in that investigation to exempt Techtronic's non-infringing products. A separate modification order will be issued herewith.

The authority for the Commission's determination is contained in Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: July 22, 2019

William Bishop,
Supervisory Hearings and Information Officer.
[FR Doc. 2019-15877 Filed: 7/25/2019 8:45 am; Publication Date: 7/26/2019]